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January 6, 1999

Mr. F. Andrew Turley
Ms. Alva E. Smith
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JAN 7 11 54 AM '99

Re: MUR 4874

Dear Mr. Turley and Ms. Smith:

I am writing as counsel of record for *The Times of Trenton* (hereinafter the *Times*) in response to the complaint filed by George E. Borchers (MUR 4874).^{1/} The *Times*, an independent newspaper not owned, controlled, or otherwise affiliated with any political party, committee, or candidate, provides a valuable service to citizens in the greater Trenton area and is proud of its news coverage of politics, elections, and other issues.

In his letter, Mr. Borchers relays a series of allegations against the *Times* which are wholly without merit. Furthermore, none of the allegations suggest a violation of the Federal Election Campaign Act ("the Act") by the *Times*. Indeed, in recognition of the important role played by the press, the Act and the Commission's regulations provide specific exemptions for the press in defining both "expenditure" and "contribution."^{2/} In addition, the Commission has consistently found that news stories, commentaries, and editorials by newspapers and other media outlets unaffiliated with political parties do not give rise to violations of the Act.^{3/} While, as we noted, the complaint does not allege facts that give rise to any violation of the Act, we note these

^{1/} A Statement of Designation of Counsel was submitted to the Commission by facsimile on January 5, 1999 (copy enclosed).

^{2/} See 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. § 100.7(b)(2); 11 C.F.R. § 100.8(b)(2).

^{3/} See *Reader's Digest Association, Inc. v. FEC*, 509 F. Supp. 1210 (S.D.N.Y. 1981); *Barnstead for Congress v. FEC* (unpublished opinion) (cited in *FEC Record*, Jan. 1980, at 5); *Kay v. FEC*, No. 80-3081 (D.D.C. April 20, 1981) (unpublished opinion), *aff'd mem.*, 672 F.2d 894 (D.C. Cir. 1981) (cited in *FEC Record*, June 1981, at 6).

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precedents to underscore the protections provided to news publications in federal law. These protections are firmly rooted in the First Amendment and freedom of the press principles.

We believe that the complaint filed against the *Times* is without merit and should be dismissed without further action against the newspaper. If I can provide any additional information, please feel free to contact me at (202) 371-6052.

Sincerely,



Andrew D. Eskin
Counsel to *The Times of Trenton*

Attachment

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4874

NAME OF COUNSEL: Andrew D. Eskin, Esq.

FIRM: Verner, Lipfert, Bernhard, McPherson & Hane

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COUNSEL

The above-named individual is hereby designated as my counsel
and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

1/4/99

Date

Brian S. Malone

Signature

RESPONDENT'S NAME:

Brian Malone / Trenton Times

ADDRESS:

The Times of Trenton
500 Perry Street, P.O. Box 847
Trenton, NJ 08605

TELEPHONE: HOME: ()

BUSINESS: (609) 989-5665